

Freedom of Information: Right to know request

Thank you for your request for information dated 9 May about Ofcom staff resources spent on the Whistl complaint (the Royal Mail investigation) since February 2014. This has been considered under the Freedom of Information Act 2000 ('the Act').

You asked: *Please could you provide details of the amount of Ofcom resources (person days split by grade - associate, senior associate, principal etc) in each calendar month, that have been spent on the Whistl complaint, since the case was opened in Feb 2014*

We hold information on the amount of time Ofcom staff have spent on the Royal Mail investigation from March 2014 (when the time-recording code for the investigation was opened) to the date of your request.

We have provided you with data which shows the number of hours recorded on a monthly basis by permanent Ofcom staff associated with the Royal Mail investigation opened in late February 2014 until end July 2015. Please note that it does not include temporary paralegal resource which has been employed throughout the investigation to provide administrative support. As the relevant individuals worked on multiple cases it is not possible to identify hours specifically associated with the Royal Mail investigation. Please also note that members of the team may have changed (or changed grades) during the investigation.

The data from August 2015 to May 2017 has been withheld on the basis of the exemption in section 43(2) of the Act, although other exemptions such as those in section 31 (law enforcement) and 36 (prejudice to effective conduct of public affairs) may also apply.

Section 43(2) provides that information is exempt from disclosure if its disclosure under the Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Ofcom publishes case updates from time to time about its investigations in the Competition and Consumer Enforcement Bulletin. The last update relating to the Royal Mail investigation was published in July 2015 (issue of the Statement of Objections, see update at https://www.ofcom.org.uk/about-ofcom/latest/bulletins/competition-bulletins/open-cases/cw_01122) and since then, Ofcom has not provided further information relating to the case to the public. However, information about the amount of hours spent by Ofcom staff since July 2015 could potentially lead to inferences being drawn about the progress and development of the investigation, which may or may not be correct. Disclosure of this information would, or would be likely, therefore, to prejudice the commercial interests of the target of the investigation, Royal Mail.

Section 43 is a qualified exemption and is subject to a public interest test. Broadly, this means that the information should only be withheld under the exemption where the public interest in doing so outweighs that in favour of disclosure.

In applying this exemption, we have had to balance the public interest in withholding the information against the public interest in disclosing the information. Annex A to this letter sets out the exemption in full, as well as the factors Ofcom considered when deciding where the

public interest lay. Having completed this balancing exercise, we have decided that the public interest is best served by not releasing the information which falls under section 43

Timing

If you wish to exercise your right to an internal review you should contact us within two months of the date of this letter. There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Steve Gettings
The Secretary to the Corporation
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF